

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA)	
)	
vs.)	Criminal No. 04-176
)	
FREDERICK H. BANKS)	

ORDER

Frederick H. Banks ("Defendant") has filed a pleading entitled "Motion for Reconsideration and Objections to Amended Judgment in Criminal Case," Docket No. 509, in which he argues that the Court's Orders entered at Docket Nos. 506 and 507 should be reconsidered and, in effect, rescinded. In Docket No. 506, the Court held that it had no jurisdiction to address the arguments raised in an earlier motion while his appeal to the United States Court of Appeals for the Third Circuit was pending. In Docket No. 507, the Court acknowledged that a clerical omission had been made in the Judgment in a Criminal Case entered against Defendant following his conviction, and directed that the judgment be amended to properly reflect the sentence imposed upon Defendant by this Court on March 10, 2006.

A motion for reconsideration must be premised on at least one of three bases: (1) an intervening change in controlling law; (2) the availability of new evidence; and (3) the need to correct clear error or prevent manifest injustice. Harsco Corp. v. Zlotnicki,

779 F.2d 906, 909 (3d Cir. 1985), *cert. denied*, 476 U.S. 1171 (1986); see also Frederick Banks v. Vio Software, No. 07-587, 2007 U.S. Dist. LEXIS 57154, *3 (D. Colo. Aug. 3, 2007). Defendant fails to raise any argument which satisfies one or more of these criteria, even when his pleading is most liberally construed.

AND NOW, this 9th day of August, 2007, Defendant's motion filed at Docket No. 509 is hereby denied.

/s/ JOY FLOWERS CONTI

Joy Flowers Conti
United States District Judge

cc: Brendan T. Conway, Esq.
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